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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/820,410

03/29/2001

Joseph H. Holland

053520-5016

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12/14/2006

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WASHINGTON, DC 20004

EXAMINER

JEANTY, ROMAIN

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/820,410

Applicant(s)

HOLLAND ET AL.

Examiner

James Alpert

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-35 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The following communication is in response to Applicants' election filed 26 September 2006. Applicants' election without traverse of Invention 1 is acknowledged. However, upon further review of the claims, the Examiner has become aware that a further restriction is required. This is because claim 35 was mistakenly included in Invention 1, when it should have been included with the claims of Invention 2. The examiner would like to state for the record that several attempts were made to contact Applicants' representatives by telephone seeking either cancellation of the claim or further election, including messages being left with voice mail. However, the Examiner did not receive any communication in response so this further restriction requirement is now presented.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

1. Claims 1,5,7-9,21-23,28,32 drawn to a method, article of manufacture, and data storage unit for managing output, including permitting a plurality of members to communicate with a further member, which is a provider.
2. Claims 3,14-16,34-35 drawn to a method and data storage unit for managing output, including providing a demand structure for use by a provider to determine an output requirement, said provider being a member belonging to a community.
3. Claims 2,10-13,29-31,33 drawn to a method, article of manufacture, computer program product, and data storage unit for planning a business objective, including providing a structure, which identifies a plurality of resources, said structure relating to a quantity of at least one of said resources to a period of time.

4. Claims 4,17-20, drawn to a method of planning a business objective, including permitting a plurality of traders to update a portion of a structure, which identifies a plurality of resources, said structure relating a quantity of at least one of said resources to a period of time.

5. Claims 6,24-27, drawn to a method of planning a business objective, including providing a structure which identifies a plurality of resources, said structure relating a quantity of at least one of said resources to a period of time, said structure being used by a plurality of providers to determine output requirements, said providers being members;

Inventions of Group 1 and Groups 2-5 are distinct, each from the other because the inventions are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Invention 1 has separate utility such as permitting a plurality of members to communicate with a further member, which is a provider. This specific feature is not found in the other groups. See MPEP § 806.05(d).

Inventions of Group 2 and Groups 1,3-5 are distinct, each from the other because the inventions are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Invention 2 has separate utility such as providing a demand structure for use by a provider to determine an output requirement, said provider being a member belonging to a community. This specific feature is not found in the other groups. See MPEP § 806.05(d).

Inventions of Group 3 and Groups 1-2,4-5 are distinct, each from the other because the inventions are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are

shown to be separately usable. In the instant case, Invention 3 has separate utility such as providing a structure, which identifies a plurality of resources, said structure relating to a quantity of at least one of said resources to a period of time. This specific feature is not found in the other groups. See MPEP § 806.05(d).

Inventions of Group 4 and Groups 1-3,5 are distinct, each from the other because the inventions are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Invention 4 has separate utility such as permitting a plurality of traders to update a portion of a structure, which identifies a plurality of resources, said structure relating a quantity of at least one of said resources to a period of time. This specific feature is not found in the other groups. See MPEP § 806.05(d).

Inventions of Group 5 and Groups 1-4,6 are distinct, each from the other because the inventions are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Invention 5 has separate utility such as providing a structure which identifies a plurality of resources, said structure relating a quantity of at least one of said resources to a period of time, said structure being used by a plurality of providers to determine output requirements, said providers being members. This specific feature is not found in the other groups. See MPEP § 806.05(d).

### ***Conclusion***

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicant is reminded that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that a shortened statutory period for response to this action is set to expire 30 (thirty) days from the mail date of this letter. Failure to respond within the period for response will result in abandonment of the application. See 35 U.S.C 133, MPEP §'s 710.02, 710.02(b).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is (571) 272-6738. The examiner can normally be reached on M-F 9:00-5:30.

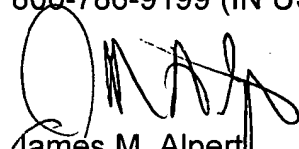
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

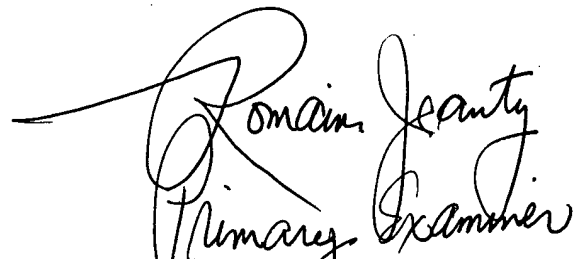
Application/Control Number:  
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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James M. Alpert  
December 10, 2006



Romain Leanty  
Primary Examiner  
Art Unit 3623